

Alachua County #2
Ordinance 88-15
Contact: Jim Trifilio
Office of Environmental Protection, Alachua County
(904) 336-2442
Health Ordinance
Adopted: 1988

Alachua County
Board of County Commissioners

ORDINANCE 88-15

AN ORDINANCE REGULATING LAND USES INVOLVING HAZARDOUS MATERIAL TRANSPORT AND STORAGE; PROVIDING FOR WELL CONSTRUCTION AND DEVELOPMENT STANDARDS TO PROTECT THE SOURCE OF THE GAINESVILLE URBAN AREA WATER SUPPLY; PROVIDING FOR SHORT TITLE; PROVIDING DEFINITIONS; PROVIDING FOR DESIGNATION OF THE DEPARTMENT OF ENVIRONMENTAL SERVICES AS DEPARTMENT FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING FOR POWERS AND DUTIES OF THE DEPARTMENT; PROVIDING GENERAL PROVISIONS; DESIGNATING MATERIALS REGULATED BY THIS CODE; PROVIDING FOR PROHIBITIONS; PROVIDING FOR WELL FIELD MANAGEMENT PERMITS; PROVIDING FOR CONTAINMENT STANDARDS; PROVIDING THAT VIOLATIONS OF THIS CODE BE REFERRED TO THE CODES ENFORCEMENT BOARD FOR ACTION; DESIGNATING A HEARING OFFICIAL TO CONDUCT PUBLIC HEARINGS; PROVIDING FOR PUBLIC HEARING PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Alachua County Ordinance 86-20, the Alachua County Charter, and Section 125.01, Florida Statutes, authorize the Board of County Commissioners of Alachua County, Florida, to provide standards which will ensure the health, safety, and welfare of the citizens of Alachua County; and,

WHEREAS, the Board of County Commissioners of Alachua County, Florida, recognizes that the public water supply of the Gainesville urban area is provided through an established well field, known as the Murphree Well Field, located at the Dr. Walter E. Murphree Water Treatment Plant, 1600 N.E. 53rd Avenue, Gainesville, Florida (Section 15, Township 9 South, Range 20 East, Alachua County); and,

WHEREAS, the Board of County Commissioners of Alachua County, Florida, deems

it appropriate and in the interest of the public health, safety, and welfare of the citizens of Alachua County to adopt regulations relating to land uses and development in the vicinity of the Murphree Well Field to prevent contamination of the ground water supply.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

Section 1. Short Title. This code shall be known and cited as the "Murphree Well Field Management Code."

Section 2. Purpose. The purpose of this ordinance is the protection of health, life, resources, and property through regulation of hazardous material transport and storage, well construction, and related aspects of land use and development in the vicinity of the Murphree Well Field.

Section 3. Definitions.

a. "Aquifer" or "aquifer system" means a geologic formation, group of formations, or part of a formation that contains sufficient saturated, permeable material to yield significant quantities of water to wells and springs.

b. "Board" shall mean the Board of County Commissioners of Alachua County, Florida.

c. "County" shall mean Alachua County, Florida.

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d. "Department" shall mean the Alachua County Department of Environmental Services.

e. "Facility" means a building or buildings, appurtenant structures, and surrounding land area used by a single business private entity or governmental unit or sub-unit at a single location or site.

f. "Floridan aquifer system" means the thick carbonate sequence which includes all or part of the Paleocene to early Miocene Series and functions regionally as a water-yielding hydraulic unit. Where overlaid by either the intermediate aquifer system or the interinediate confining unit, the Floridan contains water under confined conditions. Where overlaid directly by the surficial aquifer system, the Floridan may or may not contain water under confined conditions, depending on the extent of low permeability materials in the surficial aquifer system. Where the carbonate rocks crop out, the Floridan generally contains water under unconf med conditions near the top of the aquifer system; but, because of vertical

variations in permeability, deeper zones may contain water under confined conditions. The Floridan aquifer system is present throughout the County and is the deepest part of the active ground water flow system. The top of the aquifer system generally coincides with the absence of significant thicknesses of clastics from the section and with the top of the vertically persistent permeable carbonate section. For the most

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part, the top of the aquifer system coincides with the top of the Suwannee Limestone, where present, or the top of the Ocala Group. Where these are missing, the Avon Park Limestone or permeable carbonate beds of the Hawthorn Formation form the top of the aquifer system. The base of the aquifer system coincides with the appearance of the regionally persistent sequence of anhydride beds that lie near the top of the Cedar Keys Limestone.

g. "Ground water" shall mean water in a saturated zone or stratum beneath the surface of land or water, whether or not it is flowing through known and definite channels.

h. "Hazardous materials" shall be those materials specified in Section 7 of this ordinance.

i. "Intermediate aquifer system" means all rocks that lie between the overlying surficial aquifer system and the underlying Floridan aquifer system. These rocks in general consist of fine-grained clastic deposits interlayered with carbonate strata belonging to all or parts of the Miocene and younger series. In places, poor water-yielding to non-water-yielding strata mainly occur; there the term "intermediate confining unit" applies. In other places, one or more low to moderate-yielding aquifers may be interlayered with relatively impermeable confining beds; there the term "intermediate aquifer system" applies. The aquifers within this system contain water under confined conditions. The top of the intermediate aquifer system or the

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intermediate confining unit coincides with the base of the surficial aquifer system. The base of the intermediate aquifer is the top of the vertically persistent permeable carbonate section that comprises the Floridan aquifer system, or, in other words, that place in the section where clastic layers of significant thickness are absent and permeable carbonate rocks are dominant. Where the upper layers of the persistent carbonate section are of low permeability, they are part of either the intermediate aquifer system or intermediate confining unit, as applicable to the area.

j. "Murphree Well Field" means the land area defined by the property boundaries of all contiguous tax parcels owned by the City of Gainesville in Section 15, Township 9 South, Range 20 East, which are associated with the Dr. Walter E. Murphree

Water Treatment Plant, located at 1600 N.E. 53rd Avenue, Gainesville, Florida, as described in Attachment "A".

k. "Petroleum product" shall include fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, and other similar products. This term does not include liquified petroleum gas, American Society for Testing and Materials grade number 5 and number 6 residual oils, bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher, and asphalt oils.

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l. "Primary containment" means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.

m. "Primary Well Field Management Zone" means the land area immediately surrounding the Murphree Water Treatment Plant, and extending a radial distance of 2640 feet (one-half mile) from the Murphree Well Field property boundaries.

n. "Product-tight" shall mean impervious to the hazardous material which is or could be contained so as to prevent the seepage of the hazardous material from the containment system. To be product-tight, the containment system shall be made of a material that is not subject to physical or chemical deterioration by the hazardous material being contained.

o. "Secondary containment" means the level of product-tight containment external to and separate from the primary containment.

p. "Secondary Well Field Management Zone" means the land area surrounding the Primary Well Field Management Zone, and extending a radial distance of 5280 feet (one mile) from the Murphree Well Field property boundaries.

q. "Storage system" means any one or combination of tanks, sumps, wet floors, waste treatment facilities, pipes, vaults, or other portable or fixed containers used, or designed to be used, for the storage of hazardous materials at a facility.

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r. "Surficial aquifer system" means the permeable hydrogeologic unit contiguous with land surface that is comprised principally of unconsolidated to poorly indurated clastic deposits. It also includes well-indurated carbonate rocks, other than those of the Floridan aquifer system where the Floridan is at or near land surface. Rocks making up the surficial aquifer system belong to all or part of the upper Miocene to Holocene Series. It contains the water table and water within it is under mainly unconfined conditions; but, beds of

low permeability may cause semi-confined or locally confined conditions to prevail in its deeper parts. The lower limit of the surficial aquifer system coincides with the top of laterally extensive and vertically persistent beds of much lower permeability. Within the surficial aquifer system, one or more aquifers may be designated based on lateral or vertical variations in water bearing properties.

s. "Tertiary Well Field Management Zone" means the land area surrounding the Secondary Well Field Management Zone, extending to the north boundary of Township 9 South, the east boundary of Range 20 East, southern boundary of Sections 25, 26, 27, 28, and 29 of Township 9 South, Range 20 East, and the western boundary of Sections 5, 8, 17, 20, and 29 of Township 9 South, Range 20 East.

t. "Well" shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise

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constructed when the intended use of such excavation is to conduct ground water from an aquifer or aquifer system to the surface by pumping or natural flow, to conduct waters or other liquids from the surface into any area beneath the surface of land or water by pumping or natural flow, or to monitor the characteristics of ground water within an aquifer system(s). For the purposes of this ordinance, geotechnical borings greater than twenty (20) feet in depth shall be included in the definition of "well."

Section 4. Designation of the Department. The Alachua County Department of Environmental Services is hereby designated as the County agency responsible for the administration and enforcement of this code.

Section 5. Powers and Duties of the Department.

a. The Department and its designated employees shall have the following powers and duties:

(1) Administer and enforce the provisions of this ordinance.

(2) Investigate complaints, study, and observe pollution conditions and make recommendations as to the institution of action necessary to abate nuisances caused by pollution, and as to prosecution of any violation of this ordinance.

(3) Make appropriate surveys, tests, and inspections of property, facilities, equipment, and processes operating under the provisions of this ordinance to determine whether the

provisions of this ordinance are being complied with, and make recommendations for methods by which pollution may be reduced or eliminated. Inspections shall be conducted in accordance with subsection "b" below.

(4) Maintain, review, and supervise all operating records required to be filed with the Department by persons operating facilities subject to the provisions of this ordinance.

(5) Render all possible assistance and technical advice to persons owning and/or operating regulated facilities, except that the Department and/or its employees shall not design facility systems for any person.

(6) Perform such other administrative duties as may be assigned by the Board.

b. Inspections.

(1) Any duly authorized representative of the Department may, at any reasonable time, enter and inspect for the purpose of ascertaining the state of compliance with this ordinance any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a regulated facility is located or is being constructed or installed or where records which are required under this ordinance are kept.

(2) Any duly authorized representative may, at reasonable times, have access to and copy any records required under this ordinance; inspect any monitoring equipment or method;

sample for any hazardous material which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this ordinance.

(3) No person shall refuse reasonable entry or access to any authorized representative of the Department who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

Section 6. General Provisions. The geographic extent of the Primary, Secondary, and Tertiary Well Field Management Zones are delineated on maps, as now or hereafter updated and supplemented, which are on file at the offices of the County, and at the Gainesville

Regional Utilities Water and Waste Water Engineering Department. These maps are adopted by reference.

a. In the Primary Well Field Management Zone:

(1) No new uses of land shall be allowed which require or involve storage, use, or manufacture of hazardous materials. The Murphree Water Treatment Plant and Gainesville Regional Utilities electric transmission and distribution facilities are exempt from this prohibition, but are subject to Containment Standards, Section 10.

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(2) No new wells shall be permitted or constructed in the surficial, intermediate, or Floridan aquifer system. Exceptions, as approved by the Department, may be granted on a case-by-case basis, and shall be limited to:

(a) Wells constructed by Gainesville Regional Utilities or their contractor as part of a monitoring system' surrounding the well field, new construction or repair of the well field production wells, or other well construction or modification required in the operations of the Murphree Water Treatment Plant.

(b) Wells constructed as part of a Department/Florida Department of Environmental Regulation-approved contaminant assessment/remediation plan where ground water contamination has been identified or is suspected.

(c) Wells constructed for private water supply in locations where the cost of connection to a public water utility would exceed the cost of the proposed private supply well and pumping system by a factor of 2.5.

(d) Geotechnical borings constructed in the surficial aquifer system.

(3) No transportation of hazardous materials shall be allowed in the Primary Well Field Management Zone, except local traffic serving facilities within the Primary Well Field Management Zone.

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(4) A variance approval shall be required for the temporary storage of hazardous materials in containers or tanks exceeding fifty (50) gallons aggregate volume for use in normal agricultural or forestry practices, and in construction activities within the Primary Zone. Hazardous materials stored in this manner and for these uses are not included in

Exclusions, Section 7b(6) and 7b(7). The variance procedure shall consist of application to the Department for the proposed activity requiring temporary hazardous material storage. The application shall be made on Department forms and shall include details of the proposed activity, a schedule of activity, types and necessary, as determined by the Department. Within twenty-one (21) days following receipt of quantities of hazardous materials to be stored and a plan for monitoring and remedial action, where receipt of a complete application for variance, the Department shall approve, approve with conditions, or deny the application. If the applicant chooses to appeal a decision by the Department, procedures set forth in Section 13, Hearing Procedure, shall be followed.

b. In the Secondary Well Field Management Zone:

(1) No new underground storage of hazardous materials shall be allowed, except vehicular fuel storage subject to Chapter 17-61, Florida Administrative Code, or Alachua County Ordinance 87-10, whichever is applicable. Facilities otherwise existing on the effective date of this ordinance shall meet the requirements for new facilities by January 1, 1993.

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(2) Secondary containment shall be provided for all new hazardous material storage systems.

(3) Aboveground storage volume of petroleum products allowed at any new facility shall not exceed:

(a) One thousand (1,000) gallons of any single material per acre of facility site.

(b) Three thousand (3,000) gallons aggregate of material per acre of facility site.

(c) Ten thousand (10,000) gallons of any single material at one facility.

(d) Forty thousand (40,000) aggregate gallons of material at one facility.

(4) Aboveground storage volume of hazardous materials other than petroleum products shall not exceed:

(a) Five hundred (500) gallons of any single material per acre of facility site.

(b) One thousand (1,000) gallons aggregate of material per acre of facility site.

(c) Five thousand (5,000) gallons of any single material at one facility.

(d) Five thousand (5,000) gallons aggregate of material facility.

(e) one hundred fifty (150) gallons aggregate of organic chemicals having a specific gravity greater than 1.0.

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(5) No new wells shall be permitted or constructed in the surficial, intermediate, or Floridan aquifer systems. Exceptions to this may include:

(a) Wells constructed by Gainesville Regional Utilities or their contractor for the production of potable water or as part of a monitoring system surrounding the well field.

(b) Wells constructed as part of a Department/Florida Department of Environmental Regulation-approved contaminant assessment/remediation plan where ground water contamination has been identified or is suspected.

(c) Wells constructed in the surficial aquifer system for the purposes of background facility monitoring.

(d) Wells constructed for private water supply in locations where the cost of connection to a public water utility would exceed the cost of the proposed private supply well and pumping system by a factor of 2.5.

(e) Geotechnical borings exceeding twenty (20) feet in depth.

(6) Within one hundred eighty (180) days following the effective date of this ordinance, existing aboveground facilities shall comply with the notice and disclosure requirements of subsection 9b of this ordinance, but shall not be required to comply with Section 10, Containment Standards. All facilities existing on the effective date of this ordinance shall

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comply with the full provisions of this code before January 1, 1998.

(7) Consumer products on display and prepackaged in normal concentrations and manner for sale to individuals for personal, family, or household purposes

shall not be required to comply with Section 10, Containment Standards. Prepackaged consumer product materials are subject to the new facility storage volume limits of this section.

(8) A variance approval shall be required for the temporary storage of hazardous materials in containers or tanks exceeding fifty (50) gallons aggregate volume for use in normal agricultural or forestry practices, and in construction activities within the Secondary Zone. Hazardous materials stored in this manner and for these uses are not included in subsections 7b(6) and 7b(7). The variance procedure shall consist of application to the Department for the proposed activity requiring temporary hazardous material storage. The application shall be made on Department forms and shall include details of the proposed activity, a schedule of activity, types and quantities of hazardous materials to be stored, and a plan for monitoring and remedial action, where necessary, as determined by the Department. Within twenty-one (21) days following receipt of a complete application for variance, the Department shall approve, approve with conditions, or deny the application. If the applicant chooses to appeal a

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decision by the Department, procedures set forth in Section 13, Hearing Procedure, shall be followed.

c. In the Tertiary Well Field Management Zone: Well construction, modification, or closure shall be regulated in accordance with the provisions of this code, following criteria established by the Department and/or the St. Johns River Water Management District and/or the Florida Department of Health and Rehabilitative Services. Well construction or modification may be allowed in the surficial, intermediate, or Floridan aquifer systems after a determination by the Department that the construction and use will not directly or indirectly degrade water quality in the Floridan aquifer system.

d. Abandoned wells shall be closed in accordance with the provisions of this code, following criteria established by the St. Johns River Water Management District and/or the Florida Department of Health and Rehabilitative Services.

e. Owners of real property located either partly or entirely within the Primary or Secondary Well Field Management Zones shall, at the time of any transfer of interest in such property, create in any deed, lease, or other document conveying such interest a notation that the property is subject to the provisions of this ordinance, the Murphree Well Field Management Code.

Section 7. Materials Regulated.

a. The materials regulated by this ordinance shall consist of the following:

(1) Petroleum products as defined in Section 3, Definitions, except for vehicular fuels stored in underground tanks that are subject to Chapter 17-61, Florida Administrative Code, or Alachua County Ordinance 87-10, whichever is applicable.

(2) Substances listed by the Secretary of the Florida Department of Labor and Employment Security pursuant Chapter 442, Florida Statutes, (Occupational Health and Safety). This list, known as the Florida Substances List, is provided in Chapter 38F-41, Florida Administrative Code.

(3) Substances listed by the Administrator of the United States Environmental Protection Agency pursuant to Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. This list is provided in Title 40 (Protection of the Environment) of the Code of Federal Regulations, Part 302, Designation, Reportable Quantities, and Notification.

(4) Substances listed by the Administrator of the United States Environmental Protection Agency pursuant to Title III of the Superfund Amendments and Reauthorization Act of 1986. The list is provided in Title 40 of the Code of Federal Regulations, Part 355, Emergency Planning and Notification..

(5) Materials listed by the Secretary of the United States Department of Transportation pursuant to the Hazardous Materials Transport Act. This list is provided in Title 49 (Transportation) of the Code of Federal Regulations, Part 172, Hazardous Materials Tables and Communications Regulations.

(6) The following elemental metals, if they are stored in a easily crumbled, powdered, or finely divided state: aluminum, beryllium, cadmium, chromium, copper, lead, manganese, mercury, molybdenum, nickel, rhodium, silver, tellurium, tin, and zinc.

(7) Any material not included above which may present similar or more severe risks to human health or the environment as determined by the party storing the material or by the Department. Such determinations must be based upon competent testing or other objective means with conclusions which indicate that the material may pose a significant

potential or actual hazard.

(8) Mixtures containing the above materials if they contain one percent (1%) or more by volume or if they are wastes.

b. Exclusions. The following materials are not subject to the provisions of this code:

(1) Radioactive materials regulated by the United States Nuclear Regulatory Commission or the Florida Department of

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Health and Rehabilitative Services (Chapter IOD-91, Florida Administrative Code, Control of Radiation Hazards).

(2) Commercial products limited to use at the facility solely for janitorial or minor maintenance purposes.

(3) Consumer products located in the home which are used for personal; family, or household purposes.

(4) oils and fluids within electric utility transformers, switches, or other electrical apparatus.

(5) AWWA-approved substances used in the production and treatment, and quality assurance/control of water for potable use.

(6) Hazardous materials used in normal agricultural or forestry practices, except those regulated pursuant to Section 6a(4), 6b(8), and 8h, provided these materials are handled and used in a manner which does not pose a contamination hazard to ground water in case of a discharge.

(7) Hazardous materials used in construction activities within the Primary and Secondary Well Field Management Zones, except those regulated pursuant to Section 6a(4) and 6b(8), provided these materials are handled and used in a manner which does not pose a contamination hazard to ground water in case of a discharge.

(8) Other regulated materials that, due to physical or chemical characteristics, do not pose a contamination hazard to ground water in case of a discharge.

c. Exemptions. The Department may exempt any material from the requirements of this code if, in the opinion of the Department, it has been demonstrated that the material, in the quantity and/or solution handled or the conditions under which it is store, does not present a significant actual or potential hazard to the contamination of ground water in case of a discharge.

Section 8. Prohibitions.

a. No person shall discharge or cause or permit the discharge of a hazardous material, as defined in Section 7, to the soils, groundwater, or surface water within the Primary, Secondary, and Tertiary Well Field Management Zones. Any person knowing or having evidence of a discharge shall report such information to the Department.

b. New sanitary landfills, as defined by Chapter 17-7, Florida Administrative Code, and filling regulated pursuant to Alachua County Ordinance 87-19, shall be prohibited within the Primary and Secondary Well Field Management Zones.

c. New domestic and/or industrial waste water treatment facilities shall be prohibited within the Primary Well Field Management Zone.

d. New septic tank waste water treatment systems shall be prohibited within the Primary Well Field Management Zone. Exceptions may be considered by the County where the cost of connection to a public waste water utility would impose an unreasonable econornic burden.

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e. No person shall construct, modify, install, replace, or close and abandon a hazardous material storage system, well, or component thereof without complying with the requirements of this ordinance.

f. Any persori who discovers a discharge of hazardous material which instailing, replacing, repairing, or inspecting a containment system or aboveground or underground utilities shall, in addition to reporting the discharge to the Department, report the discharge to the owner, operator, or agent of the facility, if known. As soon as any person in charge of a regulated storage facility or responsible for emergency response or a facility has knowledge of any unauthorized discharge of a hazardous material regulated pursuant to this ordinance, such person shall take all necessary steps to ensure the discovery and containment and clean up of such discharge and shall notify the Department of the event within twenty-four (24) hours of discovery of such discharge.

g. No person shall tamper with or bypass or cause or permit tampering with or bypassing of the secondary containment of a hazardous material storage system, except as necessary for maintenance or testing of those components.

Section 9. Well Field Management Permits.

a. No person shall construct, modify, install, replace, or close and abandon a hazardous material storage system, well, or component thereof within the applicable management zones

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of this ordinance without a well field management permit. Underground vehicular fuel storage subject to Chapter 17-61, Florida Administrative Code, or Alachua County Ordinance 87-10, whichever is applicable, is exempt from these permit requirements.

b. Existing Facility Permit. within ninety (90) days of the passage of this ordinance, all existing regulated facilities within the Primary and Secondary Well Field Management Zones shall submit an application for an existing facility permit. Such application shall be made on forms provided by the Department and shall require:

(1) Quantities and types of hazardous materials stored.

(2) Detailed plans and specifications of hazardous material storage system, including, but not limited to, details of tanks, conveyance and pumping systems, wells, and septic tanks.

(3) Plan for emergency actions to be taken if a hazardous material spill or loss occurs.

c. New Facility Permit.

(1) General requirements:

(a) Application for a well field management permit, or renewal thereof, shall be made and completed in the manner and on the forms prescribed by the Department. The application shall be completed with all requested information and shall

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be signed by the owner or operator, as applicable. The completed application shall be submitted to the Department, together with the appropriate permit fee.

(b) The permit application information and supporting documentation must be complete, truthful, and correct. Falsification of application information shall be grounds for denial, suspension, or revocation of a permit.

(c) Within thirty (30) days after receipt of the application, the Department shall examine the application, and shall notify the application of the deficiencies or lack of information and allow a reasonable time for corrections or submission of the necessary information. After receipt of all required information and the permit fee, the Department must either issue or deny a permit within sixty (60) days.

(d) The Department shall issue or renew a permit upon the applicant's demonstration that all standards required by this ordinance and other applicable regulations have been met and upon receipt of the appropriate fee.

(e) A permit, when issued, shall be in the name of the owner or operator, as applicable, which name may be that of an individual, firm, association, joint venture, corporation, partnership, governmental entity, or other legal entity. A permit shall specify the regulated facility covered by the permit. A permit may cover one, (1) or more hazardous material

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storage Systems and/or wells located at the same facility. A permit shall provide conditions necessary to ensure that the provisions of this ordinance are met. Commencement of construction of a regulated facility under a well field management permit shall be deemed acceptance of all conditions specified in the permit.

(f) Permits shall be valid for five (5) years, at which time, permits shall be renewed through application to the Department.

(g) Upon sale or legal transfer of a permitted system, the new owner or operator shall apply by letter to the Department for a new facility permit. Well field management permits are not transferable.

(h) The issuance of a permit does not convey any vested rights or exclusive privileges, nor does a permit authorize any injury to public or private property, an invasion of personal rights, or any violation of federal, state, or local laws or regulations.

(i) A permit does not constitute a waiver of, or approval, of any other permit or license or other approval that may be required for other aspects of the total project or operation.

(j) A permit, or copy thereof, must be available for inspection on the permitted premises during the life of the permit.

(k) By accepting a permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or closure and abandonment of the permitted system that are submitted to the Department may be used as evidence in any enforcement proceeding.

(2) The permittee, by acceptance of a permit, specifically agrees to allow access to the permitted facility at reasonable times by authorized Department personnel for the public of inspection and testing to determine compliance with the permit and the provisions of this ordinance.

(3) Documents. When a well filed management permit is required, the following information and accompanying documentation as may be applicable shall be submitted to the Department, together with the completed application:

(a) Construction plans and specifications for the hazardous material storage system, including, but not limited to, details of tanks, conveyance and pumping systems, secondary containment, leak detection, overfill protection, and access.

(b) Detailed plans and specifications for the construction and/or closure of wells or well systems existing or proposed within the Primary, Secondary, or Tertiary Well Field Management Zones.

(c) Prior to any person causing, allowing, permitting, or suffering the placement of any hazardous material

in a storage system covered by a well field management permit, pursuant to this ordinance, as-built drawings may not be approved unless the owner or operator demonstrates that the system has been constructed in substantial conformity with the permit.

(d) At least sixty (60) days prior to expiration of a permit, facility owner or operator shall apply to the Department for permit renewal. Permit renewal shall be approved by the Department on a demonstration by the owner that the facility complies with the provisions of this ordinance. Renewal of well permits shall not be required.

(e) At least ninety (90) days prior to the closure of a hazardous material storage systems and/or wells, the facility owner or operator shall notify the Department of intention to close the storage system or well. A closure authorization shall be issued by the Department on a demonstration by the owner that the proposed closure procedure

complies with the provisions of this ordinance, and may include, but not be limited to, such measures as removal or proper abandonment of storage systems, a closure contamination assessment, and a public notice of closure. The construction and/or closure plans, specifications, and as-built drawings for the hazardous material storage systems and/or wells, and other documents required pursuant to this section shall be prepared under the direction of and signed and sealed by a professional engineer registered in the State of Florida.

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(4) Denial, Suspension, or Revocation of Permits.

(a) The Department may deny, suspend, or revoke a permit for failure to comply with this ordinance and/or the conditions of any permit issued pursuant to this ordinance. The Department may revoke any permit issued pursuant to this ordinance on a finding that the permit holder or his agent:

1. Knowingly submitted false or inaccurate information in the application or operational reports.
2. Has violated the provisions of this ordinance or permit conditions.
3. Has refused lawful inspections as required by this ordinance.

(b) When the Department has reasonable cause to believe that grounds for the denial, suspension, or revocation of a permit exists, it shall notify the applicant or permittee in writing stating the grounds upon which the permit is being denied, suspended, or revoked, and advising the applicant or permittee of the right to a hearing in accordance with Section 13, Hearing Procedure. If the applicant or permittee makes no written request to the Department for a hearing within fifteen (15) calendar days from receipt of such notice, the permit shall be deemed denied, suspended, or revoked. If a timely request for a hearing is made, a hearing shall be held in accordance with the provisions of Section 13 hereof.

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Section 10. Containment Standards.

a. Containment of hazardous materials. No person, firm, or corporation shall store any hazardous materials regulated by this chapter until approval has been granted pursuant to this chapter. No approval shall be granted pursuant to this chapter unless the applicant demonstrates to the satisfaction of the Department, by the submission of appropriate plans and other information, that the design and construction of the storage system will result in a suitable manner of storage for the hazardous material or materials to be contained therein.

b. New storage facilities.

(1) No person, firm, or corporation shall construct or install any new storage system within the Secondary Well Field Management zone until approval has been issued pursuant to this chapter.

(2) Monitoring Capacity. All new storage Systems intended for the storage of hazardous materials shall be designed and constructed with a monitoring system capable of detecting that the hazardous material stored in the primary containment has entered the secondary containment. Visual inspection of the primary containment is the preferred method; however, other means of monitoring may be required by the Department. Where secondary containment may be subject to the intrusion of water a means of monitoring for precipitation, inflow, or other water intrusion, and for safely removing the water shall also be provided.

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(3) Containment requirements. Primary and secondary levels of containment shall be required for all new storage systems intended for the storage of hazardous materials unless exempted by the Department.

(a) All primary containment shall be product-tight.

(b) Secondary containment:

1. All secondary containment shall be constructed of materials of sufficient thickness, density, and composition so as not to be structurally weakened as a result of contact with the discharged hazardous materials. Secondary containment shall be capable of containing hazardous materials discharged from a primary container for a period of time equal to or longer than the maximum anticipated time sufficient to allow recovery of the discharged hazardous material. Secondary containment shall be designed to prevent overtopping due to wave action or splashing in the event of a failure of the primary container.

2. In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least one hundred fifty per cent (150%) of the volume of the primary container. The secondary containment volume shall be increased by an amount equal to the volume of a 100-year, 24-hour rainfall event in instances where the containment area is exposed to precipitation.

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3. In the case of a storage system with separate multiple primary containers, the secondary container shall be large enough to contain one hundred fifty percent (150%) of the volume of the largest primary container placed in it, or ten

per cent (10%) of the aggregate internal volume of all primary containers in the storage system, whichever is greater. The secondary containment volume shall be increased by an amount equal to the volume of a 100-year, 24-hour rainfall event in instances where the containment area is exposed to precipitation.

(c) Laminated, coated, or clad materials shall be considered single-walled and shall not be construed to fulfill the requirements of both primary and secondary containment.

(4) Overfill protection. An overfill protection device or procedure shall be required for any primary container.

(5) Separation of materials. Materials that, in combination, may cause a fire or explosion, or the production of a flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(6) Drainage system. Drainage of water entering by precipitation or infiltration from within a storage system containing hazardous materials shall be controlled in a manner approved by the Department so as to prevent hazardous materials

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from being discharged. No drainage system will be approved unless the flow of the drain can be controlled. The facility shall contain a means of removing the water by the owner or operator. This removal system shall also provide for a means of sampling the removed water for hazardous material contamination and a means of collecting contaminated water for disposal at an authorized disposal facility.

c. Out-of-service storage systems.

(1) No storage systems shall be abandoned, except as provided by this ordinance.

(2) Storage systems which are temporarily out of service, and are intended to be returned to use, shall continue to be monitored and inspected.

(3) Any storage system which is not being monitored and inspected in accordance with this chapter shall be closed or removed in a manner approved by the Department.

(4) Any person, firm, or corporation having title to or leasing or renting real property and having reason to believe that an abandoned storage system is located upon such property shall make a reasonable effort to locate such storage system within one

hundred eighty (180) days of the effective date of this ordinance.

(5) Whenever an abandoned storage system is located, a plan for the closing or removing or upgrading and

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permitting of such storage system shall be filed within ninety days of its discovery.

d. Monitoring.

(1) Monitoring methods. Monitoring methods shall include at least one system for detecting leakage from the primary container. A monitoring system capable of detecting that the hazardous material stored in the primary containment has entered the secondary containment shall be provided. Visual inspection of the primary containment is the preferred method; however, other means of monitoring may be required by the Department. Where secondary containment may be subject to the intrusion of water, a means of monitoring for such water shall be provided. Whenever monitoring devices are provided, they shall, where applicable, be connected to attention-getting visual and/or audible alarms.

(2) Monitoring, testing, and inspection. Every facility under this chapter shall provide testing, monitoring (if applicable), inspections, and shall maintain records adequate to demonstrate compliance therewith.

e. Maintenance, repair, or replacement.

(1) Any substantial modification or repair of a storage system, other than minor repairs or emergency repairs, shall be in accordance with plans to be submitted to the Department and approved prior to the initiation of such work.

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(2) A facility owner or operator may make emergency repairs to a storage system in advance of seeking an approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment. However, within five (5) working days after such emergency repairs have been started, the owner or operator shall seek approval by submitting drawings or other information adequate to described the repairs to the Department.

(3) Replacement of any existing storage system for hazardous materials must be in accordance with the new installation standards.

f. Secured facilities. Access to the hazardous material storage systems shall be secured by means of fences, locks, or other security system. The access to the storage systems shall be kept securely locked when unattended.

g. Emergency equipment. Emergency equipment shall be provided which is reasonable and appropriate for potential emergencies presented by the stored hazardous materials. Such equipment shall be regularly tested and adequately maintained.

h. Posting of emergency procedures. Simplified emergency procedures shall be posted conspicuously in locations where hazardous materials are stored.

Section 11. Violations; enforcement; remedies. Violations of this ordinance may be referred by the Department to the

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County's Codes Enforcement Board for enforcement action in accordance with Chapter 162, Florida Statutes, and Alachua County Ordinances 85-4 and 86-25 relating to the Codes Enforcement Board. In addition to the provisions of general law relating to the enforcement of ordinances, the County shall have, in connection with its local pollution control program, all remedies of the Florida Department of Environmental Regulation under Chapter 403, Florida Statutes, as may be provided through delegation of applicable authority, to enforce the provisions of this ordinance. Such remedies include the following:

a. Judicial remedies.

(1) The County may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the water, or property, including animal, plant, and aquatic life, of the County caused by any violation. The County and the Department are without authority to bring a civil action or impose any penalty or fine on behalf of any person.

(2) The County may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than Ten Thousand Dollars (\$10,000.00) for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

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(3) It shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the County has failed to exhaust its administrative remedies, or has failed to hold an administrative hearing prior to the institution of a civil action.

b. Administrative remedies:

(1) The County may institute an administrative proceeding to establish liability and to recover damages for an injury to the water, or property, including animal, plant, or aquatic life, of the County caused by any violation. The County may order that the violator pay a specified sum as damages to the County. Judgment for the amount of damages may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(2) If the County has reason to believe a violation has occurred, it may, through the Department, institute an administrative proceeding to be conducted in accordance with Section 13 to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action.

(3) An administrative proceeding shall be instituted by the Department's serving of a written notice of violation upon the alleged violator by certified mail. The notice shall specify the provisions of the ordinance, permit, or order of the

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Department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action may be included with the notice. However, no order shall become effective until after service and an administrative hearing, if requested with twenty (20) days after service. Failure to request an administrative hearing within this time period shall constitute a waiver thereof.

(4) Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law.

c. Injunctive relief.

(1) It is hereby found and declared that a violation of the provisions of this ordinance constitutes an irreparable injury to the citizens of Alachua County and the County may institute a civil action in a court of competent jurisdiction to seek injunction relief to enforce compliance with this ordinance, a permit, or order; to enjoin any violation of this ordinance, and to seek injunctive relief to prevent injury to the water and property, including animal, plant, and aquatic life, of the County and to protect human health, safety, and welfare caused or threatened by any violation.

(2) All judicial and administrative remedies in this section are independent and cumulative, except that the judicial and administrative remedies to recover damages are alternative and mutually exclusive.

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Section 12. Designation of Hearing Official. The Board shall designate a hearing official to conduct public hearings as required by the provisions of this ordinance. The hearing official shall conduct the public hearings in accordance with the provisions of Section 13.

Section 13. Hearing procedure.

a. When a person has timely filed for a written hearing to contest a decision of the Department regarding denial, suspension, or revocation of a permit, or to appeal a decision of the Department regarding a variance or approval of an alternative process, or when an administrative proceeding is to be conducted pursuant to this ordinance, the hearing official shall conduct a public hearing to consider the matter.

b. The hearing official, shall give the applicant for the hearing and the Department a minimum of ten (10) days prior written notice of the time, place, and nature of the hearing. In conducting a public hearing, the hearing official shall have authority to:

(1) Issue notice of hearings.

(2) Administer oaths and affirmations.

(3) Issue subpoenas authorized by law, including those requiring the attendance of witnesses and the production of documents and things which may be used as evidence.

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(4) Rule upon motions presented and offers of proof and receive relevant evidence.

(5) Issue appropriate order to effectuate discovery.

(6) Regulate the course of the public hearing.

(7) Dispose of procedural requests or similar matters.

(8) Enter any order, consistent with the authority granted by this

section, to carry out the purposes of this section.

(9) Make proposed orders and issue findings of fact and conclusions of law.

(10) Grant continuances upon stipulation of the parties or other goods cause shown.

(11) Hold conferences for the settlement or simplification of the issues by consent of the parties.

(12) Develop reasonable regulations for the conduct of such hearings.

(13) Affirm, reverse, or modify the decision or the Department which is being appealed.

c. A party to a hearing shall be afforded the following rights:

(1) To appear with and be represented by an attorney at law.

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(2) To call and examine witnesses.

(3) To introduce relevant evidence.

(4) To cross-examine adverse witnesses on any relevant matter.

(5) To rebut evidence presented.

d. An official record of all public hearings shall be made.

e. Following the public hearing, the hearing official shall, within a reasonable time thereafter, file with the Department and serve a copy of the same on all parties of record, a written report on the matter which shall include the following:

(1) The style or title of the proceedings.

(2) The time and place of the hearing.

(3) Relevant issues presented.

(4) Findings of fact, conclusions of law, and recommended order.

f. Within fifteen (15) days after receiving the hearing official's findings and recommended order, the Department shall consider same and the Department may adopt, reject, or modify the order. The Department shall notify the applicant in writing of the Department's final decision in the matter.

g. Application for judicial review of any final order of the Department shall be made to the Circuit Court in and for Alachua County.

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Section 14. Severability. It is the declared intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 15. Liberal Construction. This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of Alachua County, Florida.

Section 16. Inclusion in the Code. It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section 17. Effective Date. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners, and shall take

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effect upon receipt of official acknowledgment from that office that the same has been filed.

DULY ADOPTED in regular session, this 26th day of JULY, A.D., 1988.

ATTEST:

A. Curtis Powers, Clerk (SEAL) BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

By: _____
Brown, Chairman

Leveda

APPROVED AS TO FORM

Alachua County Attorney

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CERTIFICATE OF CLERK

I DO HEREBY CERTIFY that the annexed copy of Ordinance 88-15 is a true, correct and compared copy of the Ordinance as adopted by the Board of County Commissioners of Alachua County, Florida, at its regular meeting held on July 26, 1988.

WITNESS, my hand and official seal of the Board of County Commissioners of Alachua County, Florida this 4th day of August 1988.

A. Curtis Powers
Clerk to the Board of County

Commissioners of Alachua County